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HARRISBURG, PA  
MAY 30 2002  
PER  
MARY E. DANIELS, CLERK  
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>CARLOS CHICO WOODS</b>	:	
	:	
<b>Petitioner</b>	:	
	:	<b>CIVIL NO. 1: CV-01-1078</b>
<b>CHESNEY, et al.</b>	:	
	:	<b>(Judge Caldwell)</b>
<b>Respondents</b>	:	

**RESPONDENTS' MOTION TO DISMISS  
THE PETITION FOR WRIT OF HABEAS CORPUS**

Respondents, by and through their attorney, Victoria S. Freimuth, Deputy Attorney General, hereby request that Petitioner's Writ of Habeas Corpus be dismissed pursuant to the Court's order dated April 25, 2002, for the following reasons:

1. Petitioner, Carlos Chico Woods, an inmate currently incarcerated at the State Correctional Institution at Frackville ("SCI-Frackville"), filed a pro se petition under 28 U.S.C. §2254 challenging an August 1999 decision of the Pennsylvania Board of Probation and Parole revoking his parole and imposing eighty-two months of back time.

2. On September 12, 2001, Respondents filed an Answer to the Petition for Writ of Habeas Corpus asserting that the petition presented no cognizable constitutional claim and should be dismissed without hearing.
3. On October 10, 2001, the Court issued a Memorandum granting Petitioner's request for an extension of time to file a reply to Respondents' Answer and denying Petitioner's request for appointment of counsel.
4. Petitioner's reply brief was due on or before October 25, 2001. Respondents were not served with a copy of Petitioner's reply brief.
5. On April 25, 2002, the Court issued a Memorandum and Order providing Petitioner twenty days to file a brief addressing both cause and prejudice and miscarriage of justice on his equal protection and due process claims and serve said brief on the Respondents. If the Petitioner failed to do so, the petition would be dismissed.
6. Respondents would be provided fifteen days from service of Petitioner's brief in which to respond. Petitioner's brief was due on or before May 10, 2002. To this date, Respondents have not been served with a copy of Petitioner's brief.

7. Pursuant to Rule 5(a) of the Federal Rules of Civil Procedure, service is required of every pleading subsequent to the original complaint unless otherwise order by the court. Local Rule 7.2 requires service upon the opposing party at the time papers are filed with the clerk.
8. In addition, the Court's April 25, 2002 order specifically directed Petitioner to serve Respondents with the brief.
9. The petition for writ of habeas corpus should be dismissed for Petitioner's failure to follow federal and local rules, as well as the Court's April 25, 2002 order.
10. In the alternative, Petitioner should be ordered to serve Respondents with a copy of the brief addressing both cause and prejudice and miscarriage of justice on his equal protection, as well as the reply brief to Respondents Answer as filed in this matter. Respondents should be provided fifteen days upon receipt of said briefs, in which to review and file a response thereto.

WHEREFORE, Respondents request that the petition for writ of habeas corpus be dismissed.

Respectfully submitted,

**D. MICHAEL FISHER**  
Attorney General

*Victoria S. Freimuth*  
**VICTORIA S. FREIMUTH**  
Deputy Attorney General

**SUSAN J. FORNEY**  
Chief Deputy Attorney General  
Chief, Litigation Section

Counsel for Respondents

**OFFICE OF ATTORNEY GENERAL**  
Litigation Section  
15th Floor, Strawberry Square  
Harrisburg PA 17120

DATE: May 30, 2002

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CARLOS CHICO WOODS, :  
Petitioner :  
: No. 1:CV-01-1078  
v. :  
: (Judge Caldwell)  
JOSEPH W. CHESNEY, Supt./Warden, :  
WILLIAM F. WARD, Chairman of the :  
Pennsylvania Board of Probation and :  
Parole, MICHAEL FISHER, Attorney :  
General for the State of Pennsylvania, :  
Respondents :  
:

CERTIFICATE OF SERVICE

I, Victoria S. Freimuth, Deputy Attorney General for the Commonwealth of Pennsylvania, hereby certify that on May 30, 2002, I served a true and correct copy of the foregoing Respondents' Motion to Dismiss the Petition for Writ of Habeas Corpus, by causing it to be deposited in the United States Mail, first-class postage prepaid to the following:

Carlos Chico Woods, BY-9729  
SCI Frackville  
1111 Altamont Blvd.  
Frackville, PA 17931-2699

Victoria S. Freimuth  
VICTORIA S. FREIMUTH  
Deputy Attorney General